

ESTTA Tracking number: **ESTTA420518**

Filing date: **07/19/2011**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Viracon, Inc.
Granted to Date of previous extension	07/20/2011
Address	800 Park Drive Owatonna, MN 55060 UNITED STATES
Attorney information	Jeffrey R. Cadwell Dorsey & Whitney LLP 50 South Sixth Street Suite 1500 Minneapolis, MN 55402-1498 UNITED STATES ip.docket@dorsey.com, cadwell.jeffrey@dorsey.com

Applicant Information

Application No	85142186	Publication date	03/22/2011
Opposition Filing Date	07/19/2011	Opposition Period Ends	07/20/2011
Applicant	Storm Guard Restoration LLC 1355 Geneva Avenue North Oakdale, MN 55128 UNITED STATES		

Goods/Services Affected by Opposition

Class 037. First Use: 2003/04/20 First Use In Commerce: 2004/03/22
All goods and services in the class are opposed, namely: Residential roofing, siding, and window contracting services

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	2489404	Application Date	03/27/2000
Registration Date	09/11/2001	Foreign Priority Date	NONE
Word Mark	STORMGUARD		

Design Mark	<p style="text-align: center;">StormGuard</p>
Description of Mark	NONE
Goods/Services	Class 021. First use: First Use: 2000/07/00 First Use In Commerce: 2000/07/00 Storm resistant glass

Attachments	76010462#TMSN.gif (1 page)(bytes) STORM GUARD RESTORATION Notice of Opposition.pdf (5 pages)(169377 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Jeffrey R. Cadwell/
Name	Jeffrey R. Cadwell
Date	07/19/2011

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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Filed:

Published in the Official Gazette on:

September 30, 2010

March 22, 2011

Applicant.

Opposer's File No.: M223577

Trademark Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1451
Alexandria, VA 22313-1451

NOTICE OF OPPOSITION

Opposer, Viracoh, Inc., organized and existing under the laws of the State of Minnesota and having a place of business at 800 Park Drive, Owatonna, Minnesota 55060, believes that it will be damaged by registration of the mark shown in the above-identified application, and hereby opposes the same in accordance under the provisions of Title 15 of the U.S. Code, including, but not limited to, Sections 1052 and 1063.

The grounds for opposition are as follows:

(1) Applicant, Storm Guard Restoration LLC, a Minnesota limited liability company having an address of 1355 Geneva Avenue North, Oakdale, Minnesota 55128 has applied for registration on the Principal Register of the mark **STORM GUARD RESTORATION & Design** (depicted below) for use with “Residential roofing, siding, and window contracting services” in

International Class 37.



The application was filed on September 30, 2010, assigned Serial No. 85/142,186, and published for opposition on March 22, 2011. The application claims April 20, 2003 as the first use date and March 22, 2004 as the first use in commerce date for the **STORM GUARD RESTORATION & Design** trademark.

(2) Opposer requested and was granted an initial 30-day extension of the deadline to file an opposition by the Trademark Trial and Appeal Board ("TTAB"), which extended the deadline to May 21, 2011.

(3) Opposer requested and was granted a subsequent 60-day extension of the deadline to file an opposition by the TTAB, which extended the deadline to July 20, 2011.

(4) Opposer is a well-known company that manufactures and sells a wide range of architectural glass products in the United States and around the world. Opposer's complete product line includes insulating, laminated, silk-screened, spandrel, hurricane-resistant, acoustical, blast-mitigating, heat-treated, and high-performance coated glass.

(5) Opposer is the owner of U.S. Trademark Registration No. 2,489,404, for the mark **STORMGUARD**, registered September 11, 2001, on the Principal Register for use in connection with "Storm resistant glass" in International Class 21.

(6) The description of goods listed in Opposer's trademark registration is not limited by field of use or categories of intended customers.

(7) There is no question as to priority. Opposer has used the **STORMGUARD** mark as since at least as early as July 2000, well before the September 30, 2010 filing date of the opposed application, and well before the April 20, 2003 claimed first use date of the opposed mark.

(8) The mark **STORM GUARD RESTORATION** proposed for registration by Applicant is highly similar in sound, appearance, and connotation to Opposer's **STORMGUARD** mark. The dominant portion of Applicant's mark, **STORM GUARD**, is phonetically-identical to Opposer's **STORMGUARD** mark.

(9) The window contracting services offered by Applicant involve the very type of goods for which Opposer's **STORMGUARD** mark is registered. The parties' respective goods and services could be offered to overlapping customers and in overlapping channels of commerce.

(10) Opposer has not licensed, sponsored, or authorized the use of its **STORMGUARD** mark by Applicant in connection with Applicant's services.

(11) As a result of the confusing similarity between Opposer's and Applicant's marks, because the goods and services of Applicant and Opposer are highly related, and could be offered in overlapping channels of commerce and directed to overlapping classes of customers, registration of Applicant's mark **STORM GUARD RESTORATION** in connection with Applicant's services is likely to cause confusion or mistake or is likely to deceive purchasers as to the source or sponsorship of such services.

WHEREFORE, Opposer, Viracon, inc., prays that application Serial No. 85/142,186, be rejected and that registration of the mark **STORM GUARD RESTORATION & Design** be refused.

Respectfully submitted,


VIRACON, INC.

Date: July 19, 2011

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CERTIFICATE OF ELECTRONIC TRANSMISSION

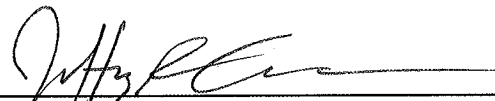
I hereby certify that this correspondence is being transmitted electronically through ESTTA pursuant to 37 C.F.R. § 2.195(a) on this 19th day of July, 2011.



Jeffrey R. Cadwell,
Attorney for Opposer

CERTIFICATE OF SERVICE

I hereby certify that the foregoing document has been served via first-class U.S. mail, postage prepaid, to Applicant's attorney of record, Jennifer C. Debrow, c/o Gray, Plant, Mooty, Mooty & Bennett, P.A., 500 IDS Center, 80 South Eighth Street, Minneapolis, Minnesota 55402-3796, this 19th day of July, 2011.



Jeffrey R. Cadwell,
Attorney for Opposer